

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**WILLIAM MCGHEE,**

**Plaintiff,**

**v.**

**CIV-04-0239 MV/LAM**

**JOE WILLIAMS, et al.,**

**Defendants.**

**ORDER ADOPTING MAGISTRATE JUDGE'S  
PROPOSED FINDINGS AND RECOMMENDED DISPOSITION (Doc. 243) AND  
GRANTING IN PART AND DENYING IN PART DEFENDANTS' MOTION FOR  
SUMMARY JUDGMENT CONTAINED IN THEIR MARTINEZ REPORT AND  
MOTION FOR SUMMARY JUDGMENT (Doc. 221)**

**THIS MATTER** is before the Court on Magistrate Judge Lourdes A. Martínez' Proposed Findings and Recommended Disposition (*Doc. 243*), filed on August 31, 2007. No party has filed objections to the proposed findings and recommended disposition and the deadline for filing objections has passed. The Court has determined that it will adopt the Proposed Findings and Recommended Disposition (*Doc. 243*), and will **GRANT IN PART** and **DENY IN PART** Defendants' motion for summary judgment contained in their Martinez Report and Motion for Summary Judgment (originally filed as *Document 101* on November 28, 2005, and renewed as *Document 221* on December 27, 2006), as set forth herein.

**IT IS THEREFORE ORDERED** that the Magistrate Judge's Proposed Findings and Recommended Disposition (*Doc. 243*) are **ADOPTED** by the Court.

**IT IS FURTHER ORDERED** that Defendants' motion for summary judgment contained in their Martinez Report and Motion for Summary Judgment (originally filed as *Document 101* on

November 28, 2005, and renewed as *Document 221* on December 27, 2006) is **GRANTED IN PART** and **DENIED IN PART**, for the reasons set forth in the Proposed Findings and Recommended Disposition (*Doc. 243*), as follows:

1. The motion is **DENIED as moot** insofar as it seeks summary judgment on Plaintiff's claims under 42 U.S.C. § 1983 for monetary relief against Defendants Williams, Bustos and Prescott in their official capacities;

2. The motion is **GRANTED** insofar as it seeks summary judgment on Plaintiff's claims under 42 U.S.C. § 1983 for declaratory and injunctive relief against Defendants Williams, Bustos and Prescott in their official capacities, except to the extent that Plaintiff's complaint seeks prospective injunctive relief and any declaratory relief that is ancillary to such prospective injunctive relief, as to which the motion is **DENIED**, and Plaintiff's claims under 42 U.S.C. § 1983 for declaratory and injunctive relief against Defendants Williams, Bustos and Prescott in their official capacities are **DISMISSED with prejudice** except to the extent that Plaintiff's complaint seeks prospective injunctive relief and any declaratory relief that is ancillary to such prospective injunctive relief;


3. The motion is **DENIED** insofar as it seeks summary judgment on Plaintiff's claims against Defendants Williams, Bustos, Prescott and Perry for the violation of Plaintiff's rights under the First Amendment;

4. The motion is **DENIED** insofar as it seeks summary judgment on Plaintiff's claims against Defendants Williams, Bustos, Prescott and Perry for the violation of Plaintiff's due process rights under the Fourteenth Amendment; and

5. The motion is **GRANTED** insofar as it seeks summary judgment on Plaintiff's claims against Defendants Williams, Bustos, Prescott and Perry for the violation of Plaintiff's right

to equal protection of the law under the Fourteenth Amendment, and Plaintiff's claims against Defendants Williams, Bustos, Prescott and Perry for the violation of Plaintiff's right to equal protection of the law under the Fourteenth Amendment are **DISMISSED with prejudice** .

**IT IS SO ORDERED.**

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**MARTHA VAZQUEZ**  
**UNITED STATES DISTRICT JUDGE**